IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

CRP.No. 698 of 1998(H)

SM.1175/1977 of TALUK LAND BOARD, PALAKKAD
.....

REVN. PETITIONER / ASSESSEE.

SMT.KUNCHI VELLA,. D/O. CHINNAN,
RESIDING AT CHOLAYIL HOUSE,
KONGAD, PALAKKD TALUK.

BY ADV. SRI.V.CHITAMBARESH
SRI.K.N.PRADEEP
SRI.T.C.SURESH MENON

RESPONDENTS:
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1. **THE STATE OF KERALA,**
REP.BY THE CHIEF SECRETARY,
TO GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. **THE TALUK LAND BOARD,**
REP.BY ITS CHAIRMAN, PALAKKAD.

3. **THE TAHSILDAR, PALAKKAD TALUK.**

BY GOVERNMENT PLEADER SRI.SHYSON P.MANGUZHA.

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 13/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRP. NO.698/1998

ORDER ON CMP. NO.1503/1998 IN CRP. NO.698/1998

DISMISSED

13.07.2008 **SD/- PIUS C.KURIAKOSE , JUDDE**

/TRUE COPY/

P.A. TO JUDGE

ss

PIUS C. KURIAKOSE, J.

CRP. No. 698 OF 1998

Dated this the 13th day of July, 2007

O R D E R

In this civil revision petition under section 103 of the Kerala Land Reforms Act the petitioner who was the assessee in SM.1125/77 on the files of the 2nd respondent the Taluk Land Board, Palakkad challenges the Taluk Land Boards order dated 23-12-1997 directing the Tahsildar to assume possession of 1.03 acres of land from the petitioner which is allegedly remaining with the petitioner as excess land. This order was passed reopening an earlier order passed bay the Taluk Land Board on 31-3-1982 invoking the orders under section 85 (9A) of the Act. The revision petitioner challenges the impugned order on various grounds. Firstly it is contended that the proceedings initiated under section 85(9A) was barred by limitation since they have been initiated after expiry of three years of the commencement of the Amendment Act,i.e., 35/89. It is also alleged that the Land Board has overstepped the limits of the review powers under section 85(9A) while passing the impugned order and altering the identity of the excess land fixed as per the order dated 31-3-1982. It is also urged that the plea of the assessee that the total extent of eligible lands should be computed in standard acres has not been accepted. If

that plea was accepted the balance remaining with the petitioner could have been seen to be only 4.97 standard acres which is well within the ceiling area of 5 standard acres to which the petitioner is entitled under section 82(1). It is also urged that the Land Board was not justified in not considering petitioner's request for re-computation of the eligible area in standard acres on the ground of delay when the very reopening of the case under section 85(9A) was grossly time barred.

2. I have heard the submissions of Sri.V.Chitambaresh, learned counsel for the petitioner and also those of the learned Government Pleader Sri.Shyson P.Manguzha. Sri.Chitambaresh would assail the impugned order on the basis of the various grounds raised in the civil revision petition and would rely on the judgment of the Full Bench in Balan v. State of Kerala, 2006(4) KLT 229. He also placed before me the judgment in O.P. No. 10973/97 which the petitioner had filed at the time when she received notice from the Taluk Land Board regarding the proposal to reopen the case under section 85(9A). Sri.Shyson P.Manguzha would defend the impugned order on the reasons stated therein. I have perused the records of the case which were called for from the Taluk Land Board.

3. Having considered the rival submissions I am of the view that the matter requires reconsideration at least in the context of the petitioners request for re-computation of the extent in standard acres. I am not very much impressed on a perusal of the records on the plea of limitation raised, but since reconsideration is being directed the Taluk Land Board will consider the question of limitation also and give reasons as to why that question is being answered against the petitioner. The result is that setting aside the impugned order, the Taluk Land Board is directed to take fresh decision on the above two aspects. Petitioner is permitted to file arguments in writing before the Taluk Land Board and the Taluk Land Board will take fresh decision answering the points raised in the written arguments. CRP is allowed to the above extent.

(PIUS C.KURIAKOSE, JUDGE)

ksv/